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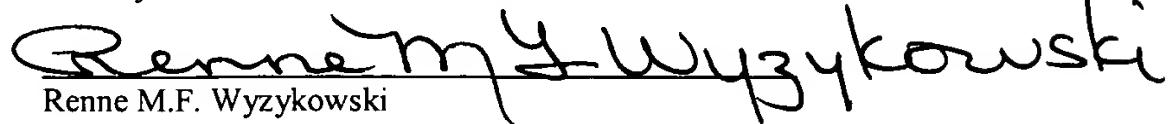
Renne M.F. Wyzykowski

Applicant	:	Michael L. Obradovich	Confirmation No. 6778
Application No.	:	09/699,031	
Filed	:	October 27, 2000	
Title	:	SYSTEM AND METHOD FOR USER NAVIGATION	
Grp./Div.	:	2162	
Examiner	:	Baoquoc N. To	
Customer No.	:	56317	
Docket No.	:	40985/C685	

APPELLANT'S BRIEF ON APPEAL UNDER 37 C.F.R. § 1.192

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Commissioner for Patents
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October 26, 2006

Commissioner:

This is an appeal to the Board of Patent Appeals and Interferences from a Notice of Panel Decision from Pre-Appeal Brief Review, dated July 21, 2006, in which Claims 1, 2 and 22-29 of the above-referenced application stand rejected.

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I. REAL PARTY IN INTEREST

The real party in interest is:

AMERICAN CALCAR INC.

II. RELATED APPEALS AND INTERFERENCES

There are no related Appeals and/or Interferences.

III. STATUS OF CLAIMS

Claims 3-29 are cancelled, of which claims 22-29 are cancelled in an amendment filed with this paper; and

Claims 1 and 2 are under appeal.

VI. STATUS OF AMENDMENTS

A Final Office Action was mailed on March 21, 2006, in which the Examiner has rejected applicant's claims as being anticipated by Knockeart, U.S. Patent No. 6,680,695.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 is directed to a method of populating a database using a personal computer device having a GPS receiver. *See Specification at page 5, lines 22-25 and FIG. 1.* The method includes determining by the personal computer device using its GPS receiver, a location at which the personal computer device becomes relatively immobile. *See Specification at page 10, lines 5-10 and FIG. 9.* The method includes transmitting, by the personal computer device, the location at which the personal computer device becomes relatively immobile to a server. *See Specification at page 10, lines 10-12 and FIG. 9.* The method includes receiving, by the personal computer device, information regarding the location from the server. *See*

Specification at page 10, lines 12-15 and FIG. 9. The method includes requesting, by the personal computer device, that the server store the information in a database associated with a user of the personal computer device. *See Specification at page 10, lines 16-24 and FIG. 9.*

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Knockeart et al., U.S. patent No. 6,680,695.

VII.   ARGUMENTS

A.   Claim 1 is patentable over Knockeart because Knockeart does not disclose or suggest at least one element of claim 1.

Claim 1 is directed to a method of using a personal computer device having a GPS receiver. Claim 1 specifies "determining, by the personal computer device using its GPS receiver, a location at which the personal computer device becomes relatively immobile." Claim 1 also specifies "transmitting, by the personal computer device, the location at which the personal computer device becomes relatively immobile to a server." Claim 1 then recites "receiving, by the personal computer device, information regarding the location from the server; and requesting, by the personal computer device, that the server store the information in a database associated with a user of the personal computer device." Appellant believes that Knockeart does not disclose or even suggest: 1) determining, by the personal computer device using its GPS receiver, a location at which the personal computer device becomes relatively immobile; 2) receiving, by the personal computer device, information regarding the location at which the personal computer device becomes relatively immobile from the server; and 3) requesting, by the personal computer device, that the server store the information regarding the location at which the personal computer device becomes immobile in a database associated with a user of the personal computer device.

1.   Knockeart does not disclose or suggest determining, by the personal computer device using its GPS receiver, a location at which the personal computer device becomes relatively immobile.

In rejecting claim 1, the final Office action dated March 21, 2006, points to col. 42, lines 31-35 of Knockeart to state that Knockeart teaches determining, by the personal computer device using its GPS receiver, a location at which the personal computer device becomes relatively immobile. The noted section of Knockeart states:

> The in-vehicle system also determines the vehicle's initial location or data related to the vehicle's initial location, and in some versions of the system the orientation of the vehicle (line 1503).

The figure of Knockeart to which the above-quoted section refers is FIG. 15A, where a route planning algorithm of the in-vehicle system 105 is shown. At step 1503, the algorithm determines current location data. However, there is no indication in Knockeart that the current location data is the location at which the in-vehicle system becomes relatively immobile.

Furthermore, step 1503 of the algorithm of FIG. 15A is preceded by step 1502, by which the algorithm accepts destination specification from the operator. Accordingly, the in-vehicle system of Knockeart only determines current location information if step 1502 of the algorithm is executed. Therefore, the condition which triggers the in-vehicle system of Knockeart to determine current location of the in-vehicle system is acceptance of destination information from the operator regardless of movement or mobility condition of the in-vehicle system.

In contrast, the present application determines, by the personal computer device using its GPS receiver, a location at which the personal computer device becomes relatively immobile. When the in-vehicle system of Knockeart becomes relatively immobile, however, there is no indication in Knockeart that in-vehicle device determines the location at which it becomes relatively immobile.

Because Knockeart does not disclose or suggest determining, by the personal computer device using its GPS receiver, a location at which the personal computer device becomes relatively immobile, Appellant believes that claim 1 is patentable over Knockeart for at least this reason.

2.   Knockeart does not disclose or suggest receiving, by the personal computer device, information regarding the location at which the personal computer device becomes relatively immobile from the server.

Referring to FIG. 1, Knockeart is directed to a vehicle information system that includes an in-vehicle system 105 and a centralized server system 120.   The in-vehicle system 105 communicates with the server system 120 during an initial exchange period during which a route is planned by the server system 120 and transmitted to the in-vehicle system 105.   In FIG. 15B, Knockeart shows an algorithm by which the server system 120 provides route information to the in-vehicle system 105 during the initial exchange period.   After the server system 120 receives the location information of the in-vehicle system 105 and the destination information, which is shown in steps 1551-1560, the server system 120 determines a planned route at step 1561 based on the specified destination and a spot map near vehicle location at step 1562.   The server system 120 then sends the planned route, spot map, and destination GPS data to the in-vehicle system 105 at step 1563.   At step 1564, the server system 120 closes communication with the in-vehicle system.

In rejecting claim 1, the final Office action dated March 21, 2006, points to step 1563 of the algorithm of FIG. 15B to assert that Knockeart discloses receiving, by the personal computer device, information regarding the location at which the personal computer device becomes relatively immobile from the server.   Step 1563 corresponds to step 1512 of FIG. 15A, that when executed, the in-vehicle system receives planned route, spot map, and destination GPS data from the server system 120.   However, there is no indication in Knockeart that the in-vehicle system 105 receives information regarding the location at which the in-vehicle system becomes relatively immobile from the server system 120.   The in-vehicle system 105 of Knockeart receives route information based on current location and destination of the vehicle during the initial exchange period with the server system 120. During this exchange period, the in-vehicle system 105 neither determines a location at which it becomes relatively immobile, nor receives any information about the location at which the in-vehicle system 105 becomes relatively

immobile from the server system 120. The in-vehicle system merely receives route and map information regarding how to get from its current location to a destination.

Therefore, during the initial exchange period between the in-vehicle system 105 and the server system 120, there is no indication in Knockeart that the in-vehicle system 105 receives information regarding the location at which the in-vehicle system becomes relatively immobile from the server system.

Furthermore, Knockeart does not disclose or suggest that after the initial exchange period the in-vehicle system 105 receives information regarding the location at which the in-vehicle system becomes relatively immobile from the server system. Knockeart discloses the following at column 8, lines 20-33:

> An in-vehicle system 105 typically operates in an autonomous mode after an initial exchange with server system 125. During the initial exchange, a starting location (or other location-related data), speed and heading, and a desired destination are uploaded from the in-vehicle system to the server system and then a planned route is downloaded from the server system to the in-vehicle system. After planned route information is downloaded to the vehicle from the server system, the in-vehicle system does not require further interaction with the server system to operate in its autonomous route guidance mode. While in the autonomous route guidance mode the in-vehicle system can recover from an operator going off the planned route without necessarily requiring further communication with the server system.

(Emphasis added).

As indicated by the above-quoted portion of Knockeart, the in-vehicle system 105 operates autonomously, except for an initial period during which a planned route is downloaded from the server system 120. Knockeart further discloses that the planned route information is transmitted to the server system 120 sending its current location and destination information to the server system 120. The server system 120 then plans the route and transmits the route to the in-vehicle system. (See columns 9, line 38 to column 10, 12, line 51; and columns 21-22). Accordingly, in the system of Knockeart, "the in-vehicle system receives the planned route, spot map, and GPS correction data from the server system and closes the communication session with the server." (See column 22, lines 45-48).

Thus, in contrast to claim 1 of the present application, if the vehicle of Knockeart becomes relatively immobile, the in-vehicle system 105 does not receive information from the server system 120 regarding the location at which the in-vehicle system 105 becomes relatively immobile, because after the initial exchange period, the in-vehicle system 105 closes communication with the server system 120.

Knockeart discloses that in-vehicle systems 105 of certain probe vehicles can report to the server system traffic exceptions for updating the traffic database of the server system 105. However, even during the traffic reporting and traffic database update operations of Knockeart, the in-vehicle system 105 does not receive information from the server system 120 regarding the location at which the in-vehicle system 105 becomes relatively immobile.

Regarding its traffic database update operation, Knockeart discloses at column 34, lines 1-11:

> In the second mode, the in-vehicle systems in the probe vehicles detect when the vehicle's speed is significantly slower than would be expected based on the class of road being traveled, on or based on traffic related data that is stored in the vehicle and which relates the expected speed to the road segment being traveled on. When the in-vehicle system detects that the vehicle's speed is slower that expected, that is, it detects any exception from expected traffic conditions, it immediately reports the exception to the server system so that the server system can update its traffic database 524 to reflects unexpected traffic conditions.

According to Knockeart, when a vehicle's speed is significantly slower than the expected speed based on the class of road being traveled, the in-vehicle system 105 of a probed vehicle reports the speed exception to the server system 120 for updating the traffic database on the server system 120. The server system 120 of Knockeart then uses the exception report from the probe vehicles as indicated at column 35, lines 51-54:

> The server system receives the exception message from the in-vehicle system. The server system updates traffic database 524, which it uses to plan routes, based on the exception messages it receives from the probe vehicles.

(Emphasis added).

The updating of the traffic database of Knockeart involves updating "an estimate of the time to travel a link based on specific road speed information associated with the link." (See column 33, lines 41-43) . When a vehicle requests a route from the server system 120 of Knockeart, the server system plans a route based on the updated link information of the traffic database. Thus, the server system 120 does not transmit any traffic information to the in-vehicle system 105 during the autonomous route guidance operation of the in-vehicle system 105. Rather, the sever system 120 provides a planned route that accounts for the updated links in the traffic database during the initial communication exchange with the in-vehicle system 105.

Therefore, in contrast to claim 1 of the present application, Knockeart does not disclose or even suggest that its in-vehicle system 105 receives any information from the server system 120 regarding the location at which the in-vehicle system 105 becomes relatively immobile. Therefore, Appellant believes that claim 1 is patentable over Knockeart.

3.   Knockeart does not disclose or suggest requesting, by the personal computer device, that the server store the information regarding the location at which the personal computer device becomes relatively immobile in a database associated with a user of the personal computer device.

In rejecting claim 1, the final Office action dated March 21, 2006, points to col. 42, lines 31-35 of Knockeart which states:

> using the remote configuration system, users of the navigation system can modify their records in user profiles 2232 that are stored at the server system. A user's profile is downloaded by the server system to the in-vehicle system in that user's vehicle, or can alternatively be stored on the server system.

Claim 1 recites "requesting, by the personal computer device, that the server store the information in a database associated with a user of the personal computer device." In contrast, there is no disclosure or suggestion in Knockeart that the server system 120 stores any information regarding a location at which the in-vehicle system 105 becomes relatively immobile in a database associated with the user of the in-vehicle system 105. Rather, Knockeart discloses that user profiles are stored on the server and are accessible and can be modified by a remote configuration system 2232. The user profiles can be stored destinations, list of frequent

destinations, stored trips and routes for the trips, and a list of particular roads to avoid. (See column 42, lines 35-60). However, there is no indication in Knockeart that any information regarding a location at which an in-vehicle system becomes relatively immobile is stored on the server system 120 in a user profile of the user of the in-vehicle system.

Furthermore, there is no disclosure or suggestion in Knockeart that the in-vehicle system 105 can request the server system 120 to store any information regarding the user's profiles which are stored on the server system 120. Rather, Knockeart discloses that user profiles that are stored on the server are accessible and can be modified by a remote configuration system 2232.

Furthermore, Knockeart does not disclose or suggest accessing the remote configuration device 2230 by the in vehicle system 20. The only methods by which the remote configuration of Knockeart can be accessed are disclosed at column 42, line 65 to column 43, line 2 as follows:

> the user can access the remote configuration system in a variety of ways, including <u>over the Internet, and over a voice telephone connection</u> interacting with an automatic speech recognition device at the server.

(Emphasis added).

There is no indication in Knockeart that the in-vehicle system 105 can access the remote configuration system 2230 to store information about the user on the server system 120. For example, Knockeart discloses the following at column 42, lines 38-42:

> For instance, a user can specify a list of frequent destinations over the Internet, and then later in the vehicle choose a particular destination in that list by selecting from a display of the list by the in-vehicle system.

Knockeart further discloses at column 42, lines 61-65 the following regarding a user's access to the remote configuration system:

> A user also uses remote configuration system 2230 to input route planning requests. For instance, the user provides a destination specification to the remote configuration system and <u>the server system downloads a planned route to the destination prior to the user entering the vehicle</u>.

(Emphasis added).

According to the above-quoted portion of Knockeart, the user requests with the remote configuration device that the server store information about the user prior to the user entering the

vehicle. Therefore, Knockeart does not disclose or suggest that the in-vehicle system can request the server to store information about the user on the server. Rather, the in-vehicle system 105 of Knockeart can only download the user profile information from the server system 120.

Because Knockeart does not disclose or even suggest "requesting, by the personal computer device, that the server store the information in a database associated with a user of the personal computer," Appellant believes that claim 1 is patentable over Knockeart.

B.   Claim 2 is patentable over Knockeart because Knockeart does not disclose or suggest at least one element of claim 2.

Claim 2 recites evaluating the position of the personal computer device using the GPS receiver. Claim 2 then recites waiting a preselected time period and reevaluating the position of the personal computer device using the GPS receiver. Claim 2 further recites determining if the position of the personal computer device before and after waiting the preselected time period is substantially the same. Appellant believes that Knockeart does not disclose or suggest waiting a preselected time period and reevaluating the position of the personal computer device using the GPS receiver.

As discussed in the foregoing in relation to claim 1, the in-vehicle system 102 of Knockeart sends its source location and destination information to the server system 120 during an initial exchange period. The in-vehicle system 102 then receives route information from the server system 120. However, Knockeart does not disclose that the in-vehicle system 102 waits a preselected time period and reevaluates the position of the personal computer device using the GPS receiver, and then determines if the position of the personal computer device before and after waiting the preselected time period is substantially the same. Knockeart discloses at column 10, lines 13:

> After in-vehicle system 105 has accepted and validated the destination specification, it establishes a communication session with server system 125 over cellular telephone link 110 and sends the destination specification to the server system. The in-vehicle system also sends information to the server system that allows the server system to determine the vehicle's starting location 690. For instance, the in-vehicle system sends the estimated latitude and longitude output

obtained from a GPS receiver in the vehicle, or sends other raw output from its
GPS receiver.

(Emphasis added).

According to Knockeart, the GPS data from the GPS receiver, whether in geographic coordinate form or raw form, is transmitted to the server system. Furthermore, nowhere in Knockeart is there disclosed or suggested that either the in-vehicle system 102 or the server system waits a preselected time period and reevaluates the position of the personal computer device using the GPS receiver, and then determines if the position of the personal computer device before and after waiting the preselected time period is substantially the same. Therefore, Applicant believes that claim 2 is patentable over Knockeart.

Conclusion

In view of the foregoing arguments, it is clear that claim 1 and claim 2 of the present application are patentable over Knockeart. Accordingly, it is respectfully requested that the rejections of Appellant's claims under 35 U.S.C. § 102(e) be reversed.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

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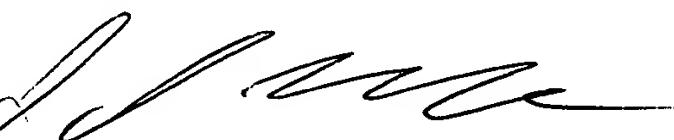
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VIII.   CLAIMS APPENDIX

Claim 1.   A method, using a personal computer device having a GPS receiver, of populating a database comprising:

determining, by the personal computer device using its GPS receiver, a location at which the personal computer device becomes relatively immobile;

transmitting, by the personal computer device, the location at which the personal computer device becomes relatively immobile to a server;

receiving, by the personal computer device, information regarding the location from the server; and

requesting, by the personal computer device, that the server store the information in a database associated with a user of the personal computer device.

Claim 2.   The method of populating a database of claim 1 wherein determining a location at which the personal computer device becomes relatively immobile comprises:

evaluating the position of the personal computer device using the GPS receiver;

waiting a preselected time period;

reevaluating the position of the personal computer device using the GPS receiver; and

determining if the position of the personal computer device before and after waiting the preselected time period is substantially the same.

IX.   EVIDENCE APPENDIX

(NONE)

X.   RELATED PROCEEDINGS APPENDIX

(NONE)